

Applicant: Henderson et al.  
Application Serial No.: 09/994,551  
Filing Date: November 27, 2001  
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### **REMARKS**

Reconsideration of the application as amended is respectfully requested.

Claims 1-4, 12, 13, 18-20, 57 and 58 are in the application. Claim 1 has been amended to include the limitations of claim 5, and, accordingly, claim 5 has been canceled. New claims 57 and 58 have been added. To avoid additional claims fees, claims 54-56 have been canceled. In addition, claims 6-11, 14-17 and 21-53 are withdrawn in view of a previous election.

In the last Official Action, claim 5 was only rejected on a basis under 35 U.S.C. §102(b) as being allegedly anticipated by Phan et al. (U.S. Patent No. 5,129,910). Since claim 1 has been amended to include the limitations of claim 5, it is respectfully submitted that the other rejections of claim 1 in the last Office Action have been overcome (i.e., the rejections under Kalis (U.S. Patent No. 5,609,624) and under Knapp et al. (U.S. Patent No. 5,984,965)). The previous rejection of claim 5 will now be addressed in terms of claim 1.

As acknowledged by the Examiner in the last Office Action, "Phan et al. disclose a stent device 1". It is respectfully submitted that Phan et al. does not disclose an arterio-venous shunt graft as claimed in claim 1. More specifically, Phan et al. is directed to a stone expulsion stent. In particular, the Phan et al. device is "useful for the removal of masses from a body passage." (Column 4, lines 6-7). The device includes a tubular body having a helical-like ridge disposed at

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least about a portion thereof. (Column 5, lines 11-13). The ridge acts to remove stones from a patient, such as from the kidney. (See, e.g., column 8, lines 8-31). There is no disclosure or suggestion in Phan et al. of a graft structure, much less an arterio-venous shunt graft structure.

Amended claim 1 is directed to an arterio-venous shunt graft. As indicated above, there is no disclosure or suggestion whatsoever in Phan et al. of a graft, much less an arterio-venous shunt graft. See MPEP, §2111.02. It is respectfully submitted that claim 1, along with dependent claims 2-4, 12, 13, 18-20 and 57, are patentable over Phan et al.

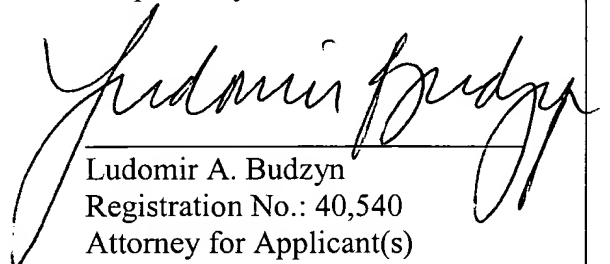
In addition, new claim 57 provides an additional basis of patentability. The three references applied in the last Office Action, namely, Phan et al., Kalis (U.S. Patent No. 5,609,624), and Knapp et al. (U.S. Patent No. 5,984,965), do not disclose or suggest an arterio-venous shunt graft. Claim 57 specifically indicates that one end of the tubular graft is formed with a larger flow area than a second end. As explained in Applicants' specification at page 5, an arterial end of the graft may have a smaller cross-sectional area than a venous end to limit the amount of blood flow diverted therethrough from the corresponding artery. None of the cited references are concerned with forming a shunt between an artery and a vein, as is the subject invention. It is respectfully submitted that claim 57 is patentable.

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New claim 58 is an independent claim which includes a similar limitation to the limitation of claim 57 and is likewise patentable over the three cited references as explained with respect to claim 57. In view of the presently-withdrawn status of numerous claims in the application, Applicants at this time do not provide dependent claims depending from claim 58. Applicants do request the opportunity to file dependent claims parallel to the claims set of claim 1 upon indication of allowance of claim 58.

Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicants' attorney at the telephone number listed below.

Respectfully submitted,



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